



REQUEST FOR PROPOSAL

Solicitation Number: ADED17-00007294

Solicitation Due Date / Time: July 13, 2017 Time (Local Time): 3:00 p.m. MST

Submittal Location: <https://procure.az.gov>

Description of Procurement: State Tutoring

Pre-Offer Conference Date, Time and Location: June 22, 2017
Time: 1:00 p.m.

Arizona Department of Education
1535 West Jefferson Street, Room 311
Phoenix, AZ 85007

In accordance with A.R.S. § 41-2534, the Arizona Department of Education is soliciting competitive sealed proposals pursuant to this Request for Proposal (RFP) for the materials or services specified herein. Respondents will submit their Offers to the State Procurement Office online through the State's e-Procurement system. Procure AZ (<https://procure.az.gov>) at the date and time posted in PROCUREAZ. Proposals received by the correct time and date will be opened and the name of each Offeror will be publically available. **Proposals shall be in the actual possession of the State prior to the time and date and at the location indicated in the Notice. Late proposals will not be considered.**

The Offer shall be submitted in an acceptable format, as described herein, using the State's online eProcurement application ProcureAZ at <https://procure.az.gov>. Submission of offers by means other than the ProcureAZ system will not be accepted. Prospective Offerors with questions in this regard shall contact the Procurement Officer prior to the Solicitation's due date and time.

To submit an Offer, Offerors shall register in the ProcureAZ system. Offerors requiring assistance in the registration process or in navigating the ProcureAZ system may call the Help Desk at 602-542-7600.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.
Please enter a nominal amount in the items/bid tab for award consideration.

Braulio Garcia

6/15/17

Procurement Specialist

Date

Steven Paulson

6/15/17

Chief Procurement Officer

Date


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	<h1>Scope of Work</h1>	<p>State of Arizona Department of Education 1535 W. Jefferson Street Phoenix, AZ 85007</p>
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1.0 PURPOSE

The Arizona Department of Education, on behalf of the State of Arizona (hereinafter referred to as “ADE” or the “State”) is issuing this solicitation (hereinafter the “Solicitation”) to obtain competitive responses from vendors to provide academic tutoring in reading, writing, and mathematics in order to improve student academic performance of struggling students throughout the State of Arizona. ADE is seeking a Contractor (hereinafter the “Contractor”) to provide tutoring that shall provide individualized, supplemental instruction of specific standards-based skills and concepts with the goal of measurable improvement. The individual or small group attention that struggling students receive through a tutoring program can motivate the student to improve his/her skills. Classroom performance increases because students are able to focus on their weaknesses. Parents can take a more active role in assuring that their child receives the additional assistance necessary to achieve at any grade level, including graduating from high school. As part of the focus on the performance of schools as measured under AZ LEARNS Legacy, the implementation of the State Tutoring Program permits a school to receive an additional resource for its students. The inclusion of eligible high school students also gave them an additional resource to assist in achieving high school graduation.

2.0 BACKGROUND

- 2.1 As defined in the Arizona Revised Statutes *A.R.S. § 15-241 (R)*: Pupils attending a school assigned a letter grade of D or F or a pupil who has failed to pass one or more portions of the Arizona Instrument to Measure Standards (AIMS) test in grades eight (8) through twelve (12) in order to graduate from high school may select an alternative tutoring program in academic standards. *A.R.S. § 15-241 (R)* was not updated when the Legislature revised the accountability portions in the 2016 session. An informal opinion from the attorney general’s office states that students attending a school that demonstrates a below average level of performance, are eligible to receive services from the State Tutoring Grant. The program reflects our efforts for continual academic improvement and appropriate fiscal management. The State Tutoring Grant is offered on a first-come first-served basis and a finite amount of funding is available. Please note, when that amount has been encumbered, Arizona Department of Education (ADE) will not be able to approve more grants. In order to make any remaining funds available to the schools with below average performance, an analysis of the performance range by ADE must be reviewed by the Local Education Agency (LEA) and State Tutoring Staff to determine the academic need for tutoring.
- 2.2 With a budget of \$1.5 million annually, this program was originally designed to target students at failing schools. Implementation was hampered early on while waiting for the AZ LEARNS Legacy accountability system to identify failing schools. As the funds began to accumulate, expansion of the program was initiated by Superintendent Horne in order to make this resource available to more students.
- 2.3 The first group to be added was students from underperforming schools as it became apparent there was a need for assistance for high school students who needed to pass the AIMS test in order to graduate. The superintendent was successful in persuading the State Tutoring Program has significantly increased. All of the accumulated funds from previous years have been used to provide students with access to tutoring in reading, mathematics or writing.
- 2.4 A tutor provides expertise, experience, and encouragement. They do not provide “answers”, but rather assist in problem solving in getting answers. The challenge is to focus on assignments within the context they are assigned. Tutors should not be expected to diagnose learning disabilities. Diagnosis should take place outside of the tutoring process by a professional academic counselor. If a larger problem becomes apparent, referral is the best strategy.

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3.0 CONTRACTOR RESPONSIBILITIES


Contractor shall:

- 3.1 Provide academic tutoring in reading, writing, and mathematics to students eligible under A.R.S. § 15-241 (R), as may be amended.
 - 3.1.1 Provide instruction that is high quality, research-based, and specifically designed to increase academic achievement, especially in reading, writing, and/or mathematics.
 - 3.1.1.1 Provide content, curriculum, and instructions that are aligned with the Arizona Academic Standards; and
 - 3.1.1.2 Provide tutors who can speak to the student face to face, in person.
 - 3.1.2 Identify the specific, remedial, standards-based skills and concepts for individual students and ensure that the maximum group size is one (1) tutor to five (5) students.
 - 3.1.3 Make certain the skills practiced on computer or worksheets must be secondary to person-person instruction.
 - 3.1.4 Provide tutoring services that are supplemental to the regular school day.
 - 3.1.5 Meet all applicable state, local, safety, and civil rights laws.
 - 3.1.6 Provide evidence upon request that the Contractor is financially sound.
 - 3.1.7 Provide tutoring services only in a public place such as company's office, student's school or public library.

4.0 REQUIRED QUALIFICATIONS

Contractor shall:

- 4.1 Employ tutors who possess a Bachelor of the Arts or a Bachelor of Science degree or a college student with twelve (12) credits in Mathematics to tutor high school and middle school students in Mathematics.
- 4.2 Employ tutors who possess a Bachelor of the Arts or Bachelor of Science degree or a college student with twelve (12) credits in English to tutor high school and middle school English Language Arts (ELA) students.
- 4.3 Employ college student with sixty (60) credits toward degree in Elementary Education for elementary and middle school students and high school special education students.
- 4.4 Employ highly qualified instructional aide employed by a school district or charter school.
- 4.5 Ensure all employees who will interact with eligible students have undergone background checks per A.R.S. § 15-534.
 - 4.5.1 Fingerprint clearance cards are required to be on school property.
- 4.6 Train tutors on ADEConnect and tutoring strategies.

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- 4.7 Provide tutors with materials such as paper, pens, white boards, Certificate of Supplemental Instruction (CSI), sig in/out sheets

5.0 REPORTING REQUIREMENTS

Contractor shall:

- 5.1 Provide documentation for monitoring to include: signed Certificates of Supplemental Instruction, attendance records that cover session dates, duration, and total number of students present, and documentation for all tutors related to their qualifications (i.e., transcripts).

6.0 DELIVERABLES

Contractor shall:

- 6.1 Provide monthly invoices showing all tutors and their reported hours. Invoices must match what is reported in ADEConnect and the Accounts Payable Report provided by State Tutoring staff.
- 6.2 Proof of growth for all students by each tutor. Proof must include but is not limited to: data showing number of students, number of sessions, pre/post-tests scores.

	<h1>Uniform Instructions to Offerors</h1>	<p style="text-align: center;">State of Arizona Department of Education 1535 W. Jefferson Street Phoenix, AZ 85007</p>
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I. UNIFORM INSTRUCTIONS TO OFFERORS (Rev 9-2014)

A. Definition of Terms

As used in these Instructions, the terms listed below are defined as follows:

1. “*Attachment*” means any item the Solicitation requires an Offeror to submit as part of the Offer.
2. “*Best and Final Offer*” means a revision to an Offer submitted after negotiations are completed that contains the Offeror’s most favorable terms for price, service, and products to be delivered; sometimes referred to as a Final Proposal Revision.
3. “*Contract*” means the combination of the Solicitation, including the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer, any Clarifications, and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
4. “*Contract Amendment*” means a written document signed by the Procurement Officer issued for the purpose of making changes in the Contract.
5. “*Contractor*” means any person who has a Contract with a state governmental unit.
6. “*Day*” means calendar days unless otherwise specified.
7. “*eProcurement (Electronic Procurement)*” means conducting all or some of the procurement function over the Internet. Point, click, buy and ship Internet technology is replacing paper-based procurement and supply management business processes. Elements of eProcurement also include Invitation for Bids, Request for Proposals, and Request for Quotations.
8. “*Exhibit*” means any document or object labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
9. “*Offer*” means a response to a solicitation.
10. “*Offeror*” means a person who responds to a Solicitation.
11. “*Person*” means any corporation, business, individual, union, committee, club, or other organization or group of individuals.
12. “*Procurement Officer*” means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
13. “*Solicitation*” means an Invitation for Bids (“IFB”), a Request for Technical Offers, a Request for Proposals (“RFP”), a Request for Quotations (“RFQ”), or any other invitation or request issued by the purchasing agency to invite a person to submit an offer.
14. “*Solicitation Amendment*” means a change to the Solicitation issued by the Procurement Officer.
15. “*Subcontract*” means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
16. “*State*” means the State of Arizona and Department or Agency of the State that executes the Contract.


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B. Inquiries

1. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.
2. Solicitation Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Procurement Officer.
3. Submission of Inquiries. All inquiries related to the Solicitation are required to be submitted in the State's eProcurement system. All responses to inquiries will be answered in the State's eProcurement system. Any inquiry related to the Solicitation should reference the appropriate solicitation page and paragraph number. Offerors are prohibited from contacting any State employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.
4. Timeliness. Any inquiry or exception to the Solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
5. No Right to Rely on Verbal or Electronic Mail Responses. An Offeror shall not rely on verbal or electronic mail responses to inquiries. A verbal or electronic mail reply to an inquiry does not constitute a modification of the solicitation.
6. Solicitation Amendments. The Solicitation shall only be modified by a Solicitation Amendment.
7. Pre-Offer Conference. If a pre-Offer conference has been scheduled under the Solicitation, the date, time and location shall appear in the State's eProcurement system. Offerors should raise any questions about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a Solicitation Amendment.
8. Persons With Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Procurement Officer. Requests shall be made as early as possible to allow time to arrange the accommodation.

C. Offer Preparation

1. Electronic Documents. The Solicitation is provided in an electronic format. Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State's eProcurement system. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. Offeror's electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Offerors wishing to submit files in any other format shall submit an inquiry to the Procurement Officer.
2. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation shall be submitted with the Offer in the State's eProcurement system and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as a signature, shall result in rejection of the Offer.

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3. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in the State's eProcurement system in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.
 - 3.1. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.
 - 3.2. Request for Proposals. All exceptions that are contained in the Offer may negatively impact an Offeror's susceptibility for award. An Offer that takes exception to any material requirement of the solicitation may be rejected.
4. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
5. Cost of Offer Preparation. The State will not reimburse any Offeror the cost of responding to a Solicitation.
6. Federal Excise Tax. The State is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.
7. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance form.
 - 7.1 Employee Identification. Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this Contract. If the federal identifier of the Offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.
8. Identification of Taxes in Offer. The State is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the Solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.
9. Disclosure. If the person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall set forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
10. Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).
11. Federal Immigration and Nationality Act. By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have five days from receipt of the

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request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the Offer not being considered for contract award.

12. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the Offer.

D. Submission of Offer

1. Offer Submission, Due Date and Time. Offerors responding to a Solicitation must submit the Offer electronically through the State's eProcurement system. Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of the State's eProcurement system or those that are received after the due date and time shall be rejected.
2. Offer and Acceptance. Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer, and shall be submitted in the State's eProcurement system with the Offer no later than the Solicitation due date and time. Failure to return an Offer and Acceptance form may result in rejection of the Offer.
3. Solicitation Amendments. A Solicitation Amendment shall be acknowledged in the State's eProcurement system no later than the Offer due date and time. Failure to acknowledge a Solicitation Amendment may result in rejection of the Offer.
4. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
5. Confidential Information. If an Offeror believes that any portion of an Offer, protest, or correspondence contains a trade secret or other proprietary information, the Offeror shall clearly designate the trade secret and other proprietary information, using the term "confidential." An Offeror shall provide a statement detailing the reasons why the information should not be disclosed including the specific harm or prejudice that may arise upon disclosure. The Procurement Officer shall review all requests for confidentiality and provide a written determination. Until a written determination is made, a Procurement Officer shall not disclose information designated as confidential except to those individuals deemed to have a legitimate State interest. In the event the Procurement Officer denies the request for confidentiality, the Offeror may appeal the determination to the State Procurement Administrator within the time specified in the written determination. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information.
6. Public Record. All Offers submitted and opened are public records and must be retained by the State for six years. Offers shall be open and available to public inspection through the State's eProcurement system after Contract award, except for such Offers deemed to be confidential by the State.
7. Non-collusion, Employment, and Services. By signing the Offer and Acceptance form or other official contract form, the Offeror certifies that:
 - 7.1. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

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- 7.2. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with an applicable federal, state and local laws and executive orders regarding employment.

E. Evaluation

1. Unit Price Prevails. In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
2. Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the Offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.
3. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the Offer for the purpose of evaluating that price.
4. Late Offers. An Offer submitted after the exact Offer due date and time shall be rejected.
5. Disqualifications. An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its Offer rejected.
6. Offer Acceptance Period. An Offeror submitting an offer under the Solicitation shall hold its offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for offer acceptance, the number of days shall be one hundred twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its offer open for one hundred twenty (120) days from the Best and Final Offer due date.
7. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:
 - 7.1 Waive any minor informality;
 - 7.2 Reject any and all Offers or portions thereof; or
 - 7.3 Cancel the Solicitation.

F. Award

1. Number of Types of Awards. The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State.
2. Contract Inception. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.
3. Effective Date. The effective date of the Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

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G. Protests

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of the Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the Procurement Officer makes the procurement file available for public inspection. A protest shall include:

- 1. The name, address, email address and telephone number of the interested party;
- 2. The signature of the interested party or its representative;
- 3. Identification of the purchasing agency and the Solicitation or Contract number;
- 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- 5. The form of relief requested.

H. Comments Welcome

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

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II. UNIFORM TERMS AND CONDITIONS Version: 10 (13-April 2016)

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 **Accepted Offer**

“Accepted Offer” means the Offer, any amended Offer and any Best and Final Offers.

1.2 **Attachment**

“Attachment” means any item that: (1) the Solicitation required Offeror to submit as part of the Offer; (2) was attached to the Offer when submitted; and (3) was attached, with or without modification from the initial submission, as the case may be, to the Accepted Offer following acceptance by the State.

1.3 **Contract**

“Contract” means the combination of the Solicitation, the Accepted Offer, and any Contract Amendments.

1.4 **Contract Amendment**

"Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.5 **Contractor**

“Contractor” means the Person identified one the signed Offer and Acceptance Form who has entered into the Contract with the State.

1.6 **Days**

“Days” means calendar days unless otherwise specified.

1.7 **Exhibit**

“Exhibit” means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.8 **Gratuity**

“Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.9 **Materials**

“Materials” means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.10 **Procurement Officer**

“Procurement Officer” means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.11 **Services**

“Services” means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.12 **Solicitation**

“Solicitation” means the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, the Requirements Document, Statement of Work, or Scope of Work, as applicable), any Specifications, the Compensation Document, and any Solicitation Amendments.



Uniform Terms and Conditions

State of Arizona
Department of Education
1535 W. Jefferson Street
Phoenix, AZ 85007

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1.13 Subcontract

“Subcontract” means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.14 State

“State” means the State of Arizona and Department or Agency of the State that executes the Contract.

1.15 State Fiscal Year

“State Fiscal Year” means the period beginning with July 1 and ending June 30.

2.0 CONTRACT INTERPRETATION

2.1 Arizona Law

This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of Arizona including the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7 without consideration of conflict laws principles.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:


- (1) the Special Terms and Conditions;
- (1) any Exhibits to the Special Terms and Conditions
- (2) the Uniform Terms and Conditions;
- (3) the Requirements Document, Statement of Work, or Scope of Work (as applicable);
- (4) the Compensation Document;
- (5) any Exhibits to the Compensation Document;
- (6) any Specifications;
- (7) any other documents referenced or included in the Solicitation; and
- (8) the Offer.

2.4 Independent Contractor

The Contractor is an independent contractor and shall act in an independent capacity in performance of this Contract. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

Any term or condition deemed illegal or invalid shall be stricken from the Contract and shall not affect any other term or condition of the Contract.

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2.6 Complete Integration

This Contract, including any documents incorporated by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to this Contract.

2.7 Waiver of Rights

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition and shall not prevent enforcement of any term and condition.

3.0 CONTRACT ADMINISTRATION AND OPERATION

3.1 Records

Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All such records shall be subject at all reasonable times to inspection and audit by the State for five years after completion of the Contract. Such records shall also be required to be produced at a designated State office if requested. For the purpose of this paragraph, reasonable times shall be during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.2 Non-Discrimination

The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.4 Notices

3.4-A Notices to Contractor.

Unless otherwise stated in this Contract, notices required to be sent to the Contractor shall be sent to the person indicated on the Offer and Acceptance form submitted by the Contractor.

3.4-B Notices to the State.


Unless otherwise stated in this Contract, notices to the State required by the Contract shall be made by the Contractor to the "buyer" indicated within the Contract in the State's e-procurement system, ProcureAZ. The respective person to whom notice shall be given may be updated by written notice to the other party. Amendment to the Contract shall not be necessary for this change.

3.5 Advertising, Publishing and Promotion of Contract

The Contractor shall not advertise, promote, or otherwise use information concerning this Contract for commercial benefit without the prior written approval of the Procurement Officer.

3.6 Ownership of Intellectual Property

Unless otherwise stated in the Special Terms and Conditions or Scope of work, the State shall have "Government Purpose Rights" to work product. Government Purpose Rights shall be defined as the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide rights to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from the work product without restriction for any activity in which the

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State is a party. “Government Purpose Rights” also includes the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use modify, release, create derivative works from the work product for any State Government Purpose. Recipients may include U.S. Federal Government, and other state and local governments. “Government Purpose Rights” do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for commercial purposes or authorize others to do so.

3.7 E-Verify Requirements

- 3.7-A In accordance with A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all Federal immigration laws and regulations relating to the immigration status of their employees.
- 3.7-B The State retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the Contract to ensure that the contractor or subcontractor is in compliance with paragraph 3.8.
- 3.7-C Should the State determine that the contractor and/or any subcontractors are noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default and suspension and/or debarment of the contractor.

3.8 Offshore Performance of Work Prohibited

Any services that are described in the specifications or scope of work that directly serve the State or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the Contract. This provision applies to work performed by subcontractors at all tiers.

3.9 Purchase Orders

The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination of this Contract, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders executed but not fully performed and satisfied prior to the expiration or termination of this Contract.

4.0 COSTS AND PAYMENTS

4.1 Payments

- 4.1-A Payments shall comply with A.R.S. Titles 35 and 41. Payment for goods and services supplied by under this Contract shall be made in full within thirty days after receipt of goods or services and a complete and accurate invoice for payment has been received by the State.
- 4.1-B In order to receive payment from the State, the Contractor shall be registered in the State’s e-procurement system, ProcureAZ and have a current IRS W9 Form on file with the State, unless not required by law.


4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

- 4.3-A *Payment of Taxes.*

The Contractor shall be responsible for paying all applicable taxes.

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4.3-B *State and Local Transaction Privilege Taxes.*

The State is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3-C *Tax Indemnification.*

Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.4 Availability of Funds

In accordance with ARS § 35-154, every payment obligation of the State under the Contract is conditioned upon the availability of funds appropriated for payment of such obligation. If funds are not appropriated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available or at the State's option, may allow appropriate amendment to the contract. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

5.0 CONTRACT CHANGES

5.1 Change Orders / Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Change Order / Amendment within the general scope of the Contract. Changes to the Contract, directed by a person who is not specifically authorized by the procurement officer or made unilaterally by the Contractor are void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts


5.2-A The Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of the Procurement Officer. The Contractor shall submit a formal, written request on Contractor's company letterhead, signed by an authorized representative of the Contractor, and containing the following information:

- (1) The subcontractor's name, address, phone number, e-mail and primary point of contact.
- (1) The certifications required of the subcontractor (if any).
- (2) The subcontractor's small business status (if applicable).
- (3) The type of goods and/or services to be provided by the subcontractor.
- (4) The amount of time or effort (as a percent of total Contract performance) that the subcontractor will perform in relation to total performance of the Contract's requirements.
- (5) The quality assurance measures that the Contractor will use to monitor the subcontractor's performance.

5.2-B The State reserves the right to request additional information deemed necessary about any proposed subcontractor. The subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

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6.0 RISK AND LIABILITY

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2-A Contractor / Vendor Indemnification (Not Public Agency).

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State, and its departments, agencies, boards, commissions, universities as defined by this Contract, and their respective officers, agents, and employees from any and all liabilities, damages, losses, investigative and other related costs, including reasonable attorney fees and court costs due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of contractor or any of its affiliates, agents, volunteers, subcontractors, or any other persons employed or used by the contractor in the performance of the Contract or subcontract. The State, its departments, agencies, boards and commissions shall be responsible for its own negligence.

6.2-B Public Agency Language Only

Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.2-C Indemnification – Patent and Copyright.


With respect solely to Materials provided or proposed by Contractor or Contractor's agents, employees, or subcontractors (each a "Contractor Party") for performance of this Contract, Contractor shall indemnify, defend and hold harmless the State, against any third-party claims for liability, costs and expenses, including but not limited to reasonable attorneys' fees for infringement or violation of any patent, trademark, copyright or trade secret by any product or service provided or proposed by Contractor in performance of this Contract. If the Contractor is a public agency, this paragraph shall not apply.

6.3 Force Majeure

6.3-A Except for payment of sums due, neither party shall be liable to the other or deemed in default if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the party. Examples of Force Majeure include but shall not be limited to:

- (1) Acts of God or of the public enemy, and
- (2) Acts of the federal or State government in either its sovereign or contractual capacity.

6.3-B The delayed party shall notify the other party as soon as is practicable and shall specify the causes of such delay. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party when commencement of performance will take place. For the purposes of paragraph 6.4, both parties shall have all rights and remedies available under law.

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6.4 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7.0 WARRANTIES

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Conformity to Requirements

Unless otherwise expressly provided in this Contract, for one year after delivery and acceptance to the State, the materials and services provided under this Contract shall: conform to the requirements of this Contract and any subsequent amendments/change orders (including without limitation: all descriptions, specifications, and drawings identified in the Scope of Work, and any written affirmations of the Contractor included as part of the Contract), be free from defects in material and workmanship, conform to or perform in a manner consistent with current industry standards, and be fit for their intended purpose or use as described under the Contract. Delivery alone does not constitute acceptance by the State. Where testing and acceptance of the materials cannot be done until after installation, the warranty shall begin upon acceptance.

7.3 Contractor Personnel

Contractor, Contractor's employees, and authorized subcontractors shall perform services under this Contract in a professional manner with the requisite skills and knowledge, consistent with industry standards and in accordance with the requirements as stated in the Contract. All Contractor key personnel shall maintain any certifications relevant to the services provided under this Contract and shall provide evidence of such certification upon request.

7.4 Intellectual Property Violations

The materials and services supplied under this Contract do not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property law.

7.5 Compliance with Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.

7.6 Survival of Warranties

All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination of this Contract.


8.0 STATE'S CONTRACTUAL REMEDIES

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may require the Contractor give a written assurance of intent to perform within a reasonable time. Failure by the Contractor to provide written assurance within the time specified may be the basis for terminating the Contract or any other remedy available by law or provided by the Contract.

8.2 Stop Work Order

The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of further costs associated with the work covered by the

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order during the period of work stoppage. If Contractor incurs losses, the Contractor must make a claim in accordance to Paragraph 10 of the Uniform Terms and Conditions of this Contract.

8.3 Non-exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or any portion of the materials or services which do not fully comply constitutes a breach of contract. The State reserves all rights to pursue any remedy available under this Contract or applicable law.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9.0 CONTRACT TERMINATION

9.1 Termination for Conflict of Interest

Pursuant to A.R.S. § 38-511, the State may terminate this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes an employee or agent of any other party to this Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter of the Contract. The termination shall be effective when the Contractor receives written notice of the termination unless the notice specifies a later time. If a political subdivision or agency of the State is a party to this Contract, it may also terminate this Contract as provided in A.R.S. § 38-511.

9.2 Gratuities


The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, the administration of the Contract, or any favorable treatment concerning the Contract or performance of the Contract. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

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9.5 Termination for Default

- 9.5-A In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5-B Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5-C The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10.0 CONTRACT CLAIMS

10.1 Claims Resolution

Notwithstanding any law to the contrary, all contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518

10.2 Arbitration

In a judicial review proceeding, the parties agree to comply with any applicable, mandatory arbitration requirements, in compliance with A.R.S. § 12-1518.

11.0 COMMENTS WELCOME

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

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1.0 DEFINITIONS

1.1. ProcureAZ terms.

ProcureAZ (<https://procure.az.gov>) is the State's online eProcurement system. Although the system was configured for the State's needs, the application is based on a commercial product known as BuySpeed Online, made by Periscope Holdings, Inc. As a result, some of the terms used in the BuySpeed Online application may be semantically different to similar terms used by the State. The following terms are as they appear in BuySpeed Online (and ProcureAZ), along with their corresponding meanings as they apply to the solicitation.

- 1.1.1. *"Allow Electronic Quote"* means an indicator, signifying whether or not offers may be submitted in ProcureAZ.
- 1.1.2. *"Alternate Id"* means a data field, in which may contain additional data in order to link a solicitation to a related project, activity or program.
- 1.1.3. *"Amendments"* means solicitation amendments.
- 1.1.4. *"Attachments"* means the section, as displayed in ProcureAZ, where the solicitation's electronic documents may be attached.
- 1.1.5. *"Available Date"* means a data field, in which may contain the date that the solicitation was published.
- 1.1.6. *"Bid"*, depending on its use may mean solicitation or offer. For example, in the terms "Bid Solicitation" and "Bid Number", the term "Bid" means solicitation. In the terms "Bid Opening Date" and "Pre Bid Conference", "Bid" means offer.
- 1.1.7. *"Bid Method"* means the type of solicitation process being conducted.
- 1.1.8. *"Bid Number"* means the solicitation's identification number.
- 1.1.9. *"Bid Opening Date"* means the date and time that offers are due.
- 1.1.10. *"Bid Solicitation"* means solicitation.
- 1.1.11. *"Bid Type"* means the extent the solicitation notices were issued, ranging from "OPEN" (notices went to vendors registered with the selected commodity codes) to "CLOSED" (notices were only sent to the specific vendors invited by the State).
- 1.1.12. *"Bill-to Address"* means the department address where invoices occurring under any resulting contract may be billed.
- 1.1.13. *"Bulletin Description"* means a data field, in which may contain additional information regarding the scope of the solicitation.
- 1.1.14. *"Buyer"* means procurement officer.
- 1.1.15. *"Department"* means the customer for whom the solicitation is being done.
- 1.1.16. *"Description"* means the solicitation's title.
- 1.1.17. *"Fiscal Year"* means the State Fiscal Year in which the solicitation was initiated.

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- 1.1.18. *“Header Information”* means the section of the solicitation, as displayed in ProcureAZ, containing solicitation information other than the line items.
- 1.1.19. *“Info Contact”* means a data field, in which may contain the contact information of a person to whom inquiries are to be directed.
- 1.1.20. *“Item information”* means the section of the solicitation, as displayed in ProcureAZ, containing the solicitation’s line items.
- 1.1.21. *“Location”* means the specific customer, within the department, for whom the solicitation is being done.
- 1.1.22. *“Organization”* means the state agency under whose authority the solicitation is being conducted.
- 1.1.23. *“Pre Bid Conference”* means pre-offer conference.
- 1.1.24. *“Print Format”* means the format of the solicitation’s print output.
- 1.1.25. *“Purchase Method”* means the type of contract transaction contemplated, ranging from an “Open Market” (one-time) transaction to a “Blanket” (term) transaction.
- 1.1.26. *“Quote”* means offer.
- 1.1.27. *“Required Date”* means a data field, in which may contain the date that the materials, services or construction are needed by the State.
- 1.1.28. *“Ship-to Address”* means the department address where materials, services or construction purchased under any resulting contract may be billed.
- 1.1.29. *“Type Code”* means the category of customers that may use any resulting contract(s). E.g., Single-Agency, Multi-Agency or Statewide.
- 1.1.30. *“Purchaser”* means procurement officer.

2. Pre-proposal Conference

A Pre-Offer Conference will be held at the time and place indicated in the Solicitation’s ‘Pre-Bid Conference’ field as found within the State’s e-Procurement system, ProcureAZ (<https://procure.az.gov>). The purpose of the conference will be to clarify the contents of the Solicitation in order to prevent any misunderstanding of the State of Arizona’s position. Any doubt as to the requirements of the Solicitation or any apparent omission or discrepancy should be presented to the State at the conference. The State of Arizona will then determine the appropriate action necessary, if any, and issue a written amendment to the Solicitation if required. Oral statements or instructions will not constitute an amendment to the Solicitation.

3. ADE Representative

The ADE Representative is Braulio Garcia, Procurement Specialist.

Note: All questions should be in writing referencing the RFP #ADED17- 00007294 via **ProcureAZ Q & A Tab**.
<https://procure.az.gov>

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4. Inquiries

Any questions related to this Request for Proposal shall be submitted through the ProcureAZ website using the Q & A Tab associated with this solicitation. The Offeror shall not contact or ask questions of the Department for which the requirement is being procured. Any correspondence related to a solicitation should refer to the appropriate solicitation number, page and paragraph number. Clarification questions should be received at least 7 days before RFP due date.

5. Submission Required in ProcureAZ

The Offer shall be submitted in an acceptable format, as described herein, using the State’s online eProcurement application ProcureAZ at <https://procure.az.gov>. Submission of offers by means other than the ProcureAZ system will not be accepted. Prospective Offerors with questions in this regard shall contact the Procurement Officer prior to the Solicitation’s due date and time.

To submit an Offer, Offerors shall register in the ProcureAZ system. Offerors requiring assistance in the registration process or in navigating the ProcureAZ system may call the Help Desk at 602-542-7600. **** Change the Unit Cost to \$1.00 – Do not “No Bid” or leave the Item blank. Pricing shall be submitted on the ATTACHMENT III – Price Sheet ****

6. Required Information

The following actions must be completed before the offer submission:

- **Acknowledgement of Solicitation Amendments (if applicable)**
All Solicitation Amendments shall be acknowledged electronically prior to the Offer due date and time. Failure to acknowledge Solicitation Amendment(s) may result in rejection of the Offer.
- **ProcureAZ Pricing**
To be considered responsive, please complete the Line Item in ProcureAZ processing.
****Change the Unit Cost to \$1.00 – Do not “No Bid” or leave the item blank****

The offer shall include the following documents. FAILURE TO PROVIDE ALL OF THE REQUIRED INFORMATION MAY RESULT IN REJECTION OF THE PROPOSAL.

- **Attachment I – Questionnaire**
- **Attachment II – References**
- **Attachment III – Price Sheet**
- **Attachment IV – Offer & Acceptance**
- **Attachment V – Deviations and Exceptions**
- **Attachment VI – Confidential/Proprietary Submittals**
- **Attachment VII – Designation of Confidential, Trade Secret & Proprietary Information**
- **Attachment VIII – Participation in Boycott of Israel**

7. Confidential Information

If a person believes that any portion of a proposal, bid, offer, specification, protest or correspondence contains information that should be withheld, then the Procurement Officer shall be so advised in writing or through use of the Confidentiality feature within ProcureAZ (Price is not confidential and will not be withheld). Such material shall be identified as confidential wherever it appears. The State, pursuant to A.A.C. R2-7-103, shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the 'Protest' provision as noted in A.R.S. §§ 41-2611 through 41-2616.

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All proposals will be made available for public inspection after the award is made; except to the extent that, pursuant to the provisions of the Arizona School ADE Procurements Rules A.A.C. Rules R2-7-2001, et seq., the Offeror has designated certain information to remain confidential and the State Agency concurs that the information should remain confidential.

If an Offeror believes that data contained in their proposal contains trade secrets or other proprietary information, and should remain confidential and not be disclosed, a statement advising the State Agency of this fact shall accompany the respective document or documents, and such information shall be specifically identified wherever it appears.

NOTE: PROPOSALS SUBMITTED REQUESTING THAT THE ENTIRE PROPOSAL BE HELD CONFIDENTIAL SHALL BE REJECTED AS NON-RESPONSIVE.

8. Offerors Responsibility

The Offeror is cautioned that it is the Offerors sole responsibility to submit information related to the evaluation categories and that ADE is under no obligation to solicit such information if it is not included with the Offerors proposal. Failure by the Offeror to submit such information may cause an adverse impact on the evaluation of the Offerors proposal.

9. Responsibility, Responsiveness and Acceptability

In accordance with A.R.S. § 41-234(G), A.A.C. R2-7-C311, R2-7-C312, and R2-7-C316, ADE shall consider at a minimum, the following criteria when determining Offeror's responsibility, as well as the proposal's responsiveness and susceptibility for contract award.

- A. Whether the Offeror has had a contract within the last five years that was terminated for cause due to breach or similar failure to comply with the terms of the contract.
- B. Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references.
- C. Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including subcontractors.
 - Legally qualified includes if the vendor or if key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.
- D. Whether the Offeror promptly supplied all requested information concerning its responsibility.
- E. Whether the Offer was sufficient to permit evaluation by ADE, in accordance with the evaluation criteria identified in this solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform Scope of Work, acknowledge Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitations.
- F. Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation including its Amendments and all documents incorporated by reference.
- G. Whether the Offer limits the rights of ADE.

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- H. Whether the Offer includes or is subjected to unreasonable conditions, to include conditions upon ADE, Necessary for successful Contract performance. ADE shall be the sole determiner as to the reasonableness of a condition.
- I. Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions.
- J. Whether the Offeror provides misleading or inaccurate information.

10. Authorized Signature

Any document that requires the Offeror's signature, the signature provided must be that of the Owner, Partner, or Corporate Officer duly authorized to sign contractual agreements. Additionally, if requested by the ADE, disclosure of ownership information shall be submitted.

- Private Owned- The Owner must sign this contract.
- Partnership- A Partner must sign this contract.
- Corporation- A Corporate Officer must sign this contract.

If an employee other than these specified individuals signs this Agreement, a Power of Attorney indicating employee's authority must accompany this Agreement. All addenda to this Agreement shall be signed by the authorized individual who signed this Agreement.

11. Evaluation Schedule

The Proposals will be initially evaluated for conforming to the requirements of the RFP. Then a technical score will be given. The Proposals with the highest scores may be selected for Oral Presentations to determine the best interests of the ADE.

Exceptions to the Terms and Conditions, as stated in the Uniform Instructions Section C.3, will impact an Offeror's susceptibility for award.

12. **Evaluation Criteria:** In accordance with the Arizona Procurement Code § 41-2534, Competitive Sealed Proposals, award(s) shall be made to the responsible Offeror(s) whose offer is determined in writing to be the most advantageous to ADE based upon the evaluation factors listed below. The evaluation factors are listed in their relative order of importance.

- A. Method of Approach and Conformance to Scope of Work
- B. Experience, Capability and Reliability
- C. Cost

13. Clarifications

Upon receipt and opening of proposals submitted in response to this solicitation, the State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or for eliminating minor informalities or correcting nonjudgmental mistakes in proposals. Clarifications shall not otherwise afford Offerors the opportunity to alter or change their proposal.

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14. Questionnaire Section

Offeror(s) should complete the entire **Attachment I - Questionnaire** section of the Request for Proposal. The Offerors responses should be in the form of a brief written narrative demonstrating the Offerors ability to satisfy the Scope of Work. The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The use of technical language should be minimized and used only to describe a technical process.

15. Discussions (Negotiations)

In accordance with A.R.S. § 41-2534, after the initial receipt of offers, ADE reserves the option to conduct discussions with those Offerors who submit offers determined by ADE to be reasonably susceptible of being selected for award.

16. Best and Final Offer

If discussions are conducted, the ADE shall issue a written request for best and final offers. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the ADE makes a determination that it is advantageous to conduct further discussions or change the solicitation requirements.

17. Certificate of Insurance Form

ADE recommends that the Offeror consider using the sample Certificate of Insurance included in this Solicitation. If the Offeror wishes, it may submit a substantially similar Certificate of Insurance. If the Offeror so elects, the proposed Certificate of Insurance shall be submitted to ADE for review and approval.

18. Contract Award

An agency chief procurement officer shall award the contract to the responsible Offeror whose offer is determined to be most advantageous to the State based on the evaluation factors set forth in the solicitation.

19. Public Record

All Proposals submitted in response to this Request For Proposal shall become the property of the State and shall become a matter of Public Record available for review, subsequent to the award notification, as provided for by the Arizona Procurement Code.

20. Anticipated Timeline

ACTIVITY	DATE
RFP Issue Date	6/15/17
Pre-Offer Conference	6/22/17
Clarification Questions due	7 days prior to RFP due date
Proposal Due Date	7/13/17
*Proposal Evaluations	7/18/17
*Oral Presentations (if needed)	7/24/17
*Best and Final Offer	7/26/17
* Award Date	7/27/17

* These dates are estimates only, and are subject to change without prior notice.*

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21. Offer Acceptance Period

Proposals are an irrevocable offer for **120 days** after the opening time and to allow the ADE sufficient time to evaluate the responses.

22. Rights Reserved

The right is reserved to reject any or all proposals, or to waive any informality in any proposal received or to accept all or any part of any proposal considered advantageous to the State Agency.

23. Clarification of Solicitation Requirements

It is the responsibility of all Offerors to examine the Solicitation and seek clarification of any item or requirement that may be unclear to them and to check all offers for accuracy before submittal to ADE. Any questions regarding this solicitation can be answered by submitting a request through the Procure AZ website. The Chief Procurement Officer is the only authorized person to give information as to the requirements of the solicitation in addition to that contained in the written documents.

- Questions should be submitted through the Procure AZ website and received by the Chief Procurement Officer no less than 7 days prior to the RFP due date. All questions must reference the page and item that is to be addressed.
- A Solicitation Amendment must be acknowledged by submitting a signed copy of the Amendment with your Solicitation Response.
- No verbal or written information, which is obtained other than by information in this document or by an Amendment to this solicitation, will be binding on the Arizona Department of Education.



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1. Glossary Terms

1. “*ADE*” means the Arizona Department of Education
2. “*Department*” means the Arizona Department of Education
3. “*LEA*” means Local Educational Agency which consists of Arizona public school districts, charter schools, and accommodation schools.

2. Purpose

Pursuant to provisions of the Arizona Procurement Code, A.R.S. § 41 2501 et seq., the State of Arizona intends to establish a Contract for services as listed herein for services on behalf of ADE.

3. Term of Contract

The term of the contract shall commence upon award and shall remain in effect for (1) one year, unless terminated, canceled or extended as otherwise provided herein.

4. Contract Extensions

The Contractor agrees that the State shall have the right, at its sole option, to renew the contract in accordance with any extensions the State may receive for supplemental periods up to a maximum contract term of (5) five years. In the event that the State exercises such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price.

5. Price Increase

ADE may review a fully documented request for a price increase only after the contract has been in effect for three (3) years. A price increase adjustment shall only be considered at the time of a contract extension and shall be a factor in the extension review process. ADE shall determine whether the requested price increase or an alternate option is in the best interest of the State. The price increase adjustment, if approved, will be effective upon the effective date of the contract extension.

The request shall be submitted at least 60 days prior to the contract renewal date and shall be a factor in the extension review process.

Failure to submit the request within the stated timeframe and/or failure to supply adequate information with the request may result in the State not considering the request.

The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the State.

6. Price Reductions

Price reductions may be submitted to the State for consideration at any time during the contract period. The State at its own discretion may accept a price reduction.

7. Contract Type

Firm fixed price, indefinite quantity



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8. Multiple Award

ADE reserves the right to make a multiple award to more than one Offeror.

9. Estimated Usage

The Contract shall be on an as needed, if needed basis. The State makes no guarantee as to the amount of usage that may occur under a resultant contract.

10. Non-Exclusive Contract

Any Contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source, when necessary, or when determined to be in the best interest of the State.

11. Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor.

12. Order Process

The award of a Contract shall be in accordance with the Arizona Procurement Code. Any attempt to represent any material and/or service not specifically awarded as being under contract with the State is a violation of the Contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

13. Changes

ADE reserves the right to revise the delivery schedule and make other changes within the Scope of Work as may be deemed necessary to best serve the interest of ADE. All changes shall be documented by formal amendments to the Contract. Changes made without benefit of a formal amendment will not be valid.

14. Purchase Orders

Work under this Contract will be funded and ordered through separate purchase orders issued by ADE.

15. Payment

Contractor will be paid as outlined in Attachment III – Price Sheet.

16. Payment/Invoices & Mailing of Payments

The Contractor shall submit invoices to account@azed.gov and the invoices shall include:

- Company Name
- Complete address
- Telephone Number
- Contact Person
- Itemized services, description, quantity, unit of measure, unit price, and extended price of supplies delivered (including dates services were performed)



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- Purchase Order Number
- Invoice date
- Contract number
- Invoice Number
- Shipping and payment terms

The Contractor is responsible to ensure that all invoices submitted for payment are completed with the above information and in strict accordance with the price(s) offered on the Proposal's Cost Form.

17. Acceptance

Upon receipt of Products and Services, and/or commencement of continual Services, ADE shall determine whether all delivered Products and Services meet the applicable Product and Services specifications and quality requirements established herein.

18. Inclusive Offeror

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority-owned business enterprises. This could include subcontracts for a percentage of Administrative or Billing needs. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority-owned business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

19. Offshore Performance of Work Prohibited

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or overhead services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

20. Confidentiality of Records

The contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that information or data in its possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner by it, its agents, officers, or employees. This includes information contained in its records obtained from the State or others, necessary for contract performance. The contractor shall take all reasonable steps and precautions to safeguard this information and data and shall not divulge the information or data to parties other than those needed for the performance of duties under the contract.

21. Disabilities Acts

The Contractor shall comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Arizona Disability Act of 1992 (A.R.S. §§ 41-1492 et. seq.), which prohibits discrimination on the basis of physical or mental disabilities in delivering contract services or in the employment, or advancement in employment of qualified individuals.

22. Assignment

The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Arizona of all rights, title and interest in and to all causes of action that the contractor may possess under the antitrust laws of the United



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States or the State of Arizona for which causes of action have accrued or will accrue as the result of or in relation to the goods or services purchased or procured by the contractor in the fulfillment of the contract with the State of Arizona.

23. Compliance Requirements For A.R.S. § 41-4401, Government Procurement; E-Verify Requirement

The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.”). A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. The ADE retains the legal right to inspect the papers of any employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty.

24. Warranty of Services

- i. The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications, attachments, and exhibits made a part of this Contract. The ADE's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.
- ii. In addition to its other remedies, the ADE may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

25. Participation in Boycott of Israel

Contractor warrants it is not engaged in a boycott of Israel as defined by A.R.S. § 35-393.01.

26. Indemnification Clause

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as “Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.



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27. Insurance Requirements

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

A. Minimum Scope and Limits of Insurance:

Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises	\$ 50,000
Each Occurrence	\$1,000,000

- The policy shall include coverage for Sexual Abuse and Molestation (SAM). This coverage may be sub-limited to no less than \$500,000. The limits may be included within the General Liability limit or provided by separate endorsement with its own limits. If you are unable to obtain SAM coverage under your General Liability because the insurance market will not support it, it should be included with the Professional Liability.
- Contractor must provide the following statement on their Certificate(s) of Insurance: “Sexual Abuse and Molestation coverage is included” or “Sexual Abuse and Molestation coverage is not excluded.”
- The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents and employees for losses arising from work performed by or on behalf of the Contractor.



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2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

Workers' Compensation

Statutory

Employers' Liability

Each Accident

\$ 1,000,000

Disease – Each Employee

\$ 1,000,000

Disease – Policy Limit

\$ 1,000,000

- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

B. Additional Insurance Requirements

- a. The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions: The Contractor's policies shall stipulate that the insurance afforded the contractor shall be primary insurance and that any insurance carried by the Department, and its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
- b. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

C. **Notice of Cancellation:** Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).



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- D. Acceptability of Insurers:** Contractors insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an “A.M. Best” rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. Verification of Coverage:** Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the State before work commences. That State’s receipt of any certificates of insurance or policy endorsements that do not comply with this writer agreement shall not waive or otherwise affect the requirements of this agreement.

Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- F. Subcontractors:** Contractor’s certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.
- G. Approval and Modifications:** The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.
- H. Exceptions:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.